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PATENT  
Attorney Docket No.: 017516-002580US

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

On December 23, 2003

TOWNSEND and TOWNSEND and CREW LLP

By: JoAnn Evangelista  
JoAnn Evangelista

#11  
Election  
S. Breyce  
1/6/04

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

JULIAN, Christopher A. et al.

Application No.: 09/998,004

Filed: November 28, 2001

For: ENDOSCOPIC BEATING-  
HEART STABILIZER AND  
VESSEL OCCLUSION  
FASTENER

Customer No.: 20350

Confirmation No. 3890

Examiner: JACKSON, GARY

Technology Center/Art Unit: 3731

### RESPONSE TO RESTRICTION REQUIREMENT

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*JAN 02 2004*

*TECHNOLOGY CENTER R3700*

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement mailed November 28, 2003, Applicants respectfully elect to prosecute the claims of Group I (claims 1-60, 75-87, 100-102) without traverse. In addition, Applicants elect the species depicted in Fig. 5. Applicants believe this species reads on all of the claims in Group I. However, in light of the large number of claims directed to the elected species, Applicants are further willing to limit the claims to a sub-species, namely a tissue stabilizer having a shaft sized to allow insertion through an endoscopic cannula and a manipulable foot connected with the shaft, wherein the foot comprises a first toe

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Response dated December 23, 2003

Reply to Office Action of Nov. 28, 2003

portion and a second toe portion, the first and second toe portions being rotatably coupled with the shaft and each toe portion comprising at least one suction port to apply suction to the target tissue during stabilization, the first toe portion and second toe portion rotateable to a first arrangement wherein the foot is insertable through the endoscopic cannula. Applicants believe that this sub-species reads on claims 1-16, 30-52.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Lynn M. Thompson  
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